Supreme Court, U.S.
FILED
04 1085 DEC 22 2004
OFFICE OF THE CLERK

NO.

IN THE
SUPREME COURT OF THE UNITED STATES

---

Stanley N. Drinkwater,Jr. — Petitioner
P.O.Box 354710 — Pro-Se
Palm Coast, Florida 32135
(386) 788-7982
Individual

V.

Parker, McCay & Criscuolo — Respondent
Three Greentree Centre, suite 401
Route 73 and Greetree Road
Marlton, New Jersey 08053
Defendants.

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On Petition For Writ Of Certiorari
United States Supreme Court

# PETITION FOR WRIT OF CERTIORARI

## QUESTIONS PRESENTED

QUESTION ONE. Is the New Jersey Legal System designed to permit Attorney's and Judges, the legal right to CIRCUMVENT the law , and arbitrarily ignore existing laws, New Jersey Statutes and existing decisions of New Jersey Justices ?

QUESTION TWO. Are New Jersey Attorney's exempt from the wording and intent of New Jersey Statutes , and permitted to incorporate their own wording,changing existing laws,that they themselves have designed to fit their defense to the complaint or motion ?

QUESTION THREE .In New Jersey the law permitting Attorney privilege and imunity in litigation in the defense of their CLIENT is clear.However,When in a defense, alleging to be defending a client,can the attorney still claim privilege and immunity when the legal time limits for answering a complaint and appeal, have legally expired, and the attorney has not requested an extension in time prior to the default judgement?

## QUESTIONS PRESENTED

QUESTION FOUR. Existing case Law , by Statute, and decisions by New Jersey Justices of the the Appellate and State Supreme Court, clearly spell out certain specifics regarding the laws, which are still existing laws , in order that their is no misunderstanding of the laws. When the decisions of the Justices is spelled out to the Courts , so that the law can be upheld and a legal and honest decision rendered in the action. Is it a violation for the Courts to ignore the laws , knowing they were informed of these laws, and render decisions in the action , as if these laws did not exist , and they were not notified of them ?

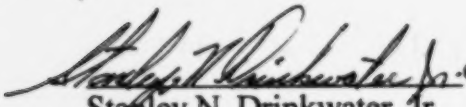
QUESTION FIVE. Over and above the decision rendered by a Court or Jury , these legal and Constitutional violations by the Attorney's , which are designed to fraud our system and citizens , can and will they be punished as an example that our laws are not something to be used to obstruct justice , but to protect it .

PARTIES TO PROCEEDINGS

Rule 29.6

Parties to this action are the Plaintiff, Stanley N. Drinkwater Jr. Defendant's are , Parker, McCay and Criscuolo, Attorneys , a professional Association.

The Plaintiff hereby states and certifies that he is not a Corporation or Company in this action and that as plaintiff , he is the only party involved in this action , and complies with Rule 29.6.



date , 11/26/04

Stanley N. Drinkwater, Jr.
Plaintiff

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3. Burns V. Belafsky .....(VII )
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## STATUTES

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New Jersey Appellate Division,
Hubbard V. Reed ,Id at 290 , Id at 291.

" In Hubbard V. Reed , the Appellate Division reviewed basic tenants of statutory Construction , Id. at 290 , and observed that " " When the statutory language is clear a Court,s sole function is to inforce the statute in accordance with those terms " . Id . , at 291 ( quoting from Philips V. Curiale , 128 N. J. , 608 , 618 (1992). The Court in Hubbard V . Reed then observed that a Court does not have Authority to substitute it's own ideas of what a statute should require in the face of clear and unambiguous statutory requirements ".

Constitution of the United States,Amendment VII.
( page 534 )

" In suits at common law , where the value shall exceed twenty dollars , the right of trial by Jury shall be preserved , and no fact tried by Jury shall be otherwise reexamined in any court of the United States , than according to the rules of the common Law".

1990: Cruzan V. Missoui. ( page 539 ).

"The Court ruled that a person had the right to refuse life-sustaining medical treatment . However , the Court also ruled that , before treatment could be withheld from a comatose patient,a State could require "clear and convincing evidence"that the patient would NOT have WANTED TO LIVE ".

NEW JERSEY APPELLATE IVISION

BURNS V. BELAFSKY, 166 N.J. 466 (2001).

" Where the Chief Justice made it clear , that an EXACT PRECISE, match between the speciality of the alleged torteasor and the speciality of the of the EXPERT was NOT REQUIRED.

What was required is a DEMONSTRATION that the EXPERT is qualified to supply the required BASIS FOR THE MEDICAL COMPLAINT ".

Affadivits of Merit, for both Doctors are attached, ( see Appendix pages 24 thru 34 ).

## TABLE OF AUTHORITIES

New Jersey State Statutes.

( 2A:53A-26). " Licensed Person " Defined, as used in this act , " licensed person " means any person who is licensed as :

(a). an accountant pursuant to P. L. 177, c 144 (C.45:2B-1et seq);

(b). an architect pursuant to R.S. 45:3-1 et seq;

(c). an attorney admitted to practice law in New Jersey;

(d). a dentist pursuant to R.S.45:6-1 et seq.;

(e). an engineer pursuant to P .L.1938,c.342 (C. 45:8-27 et seq);

(f). a physician in practice of medicine or surgery pursuant to R.S. 45:9-1 et seq.;

(g). a podiatrist pursuant to R.S.45:5-et seq.;

(h). a chiropractor pursuant to P. L.1989, c. 153 ( C. 45:9-41.17 et seq. ); and

(j). a health care facility as defined in section 2 of P.L. 1971, c. 136 ( C. 26:2h-2).L.1995,c. 139,1.

(2A: 53A-27.) Affidavit required in certain actions against licensed persons.

In an action for damages for personal injuries , Wrongful death , or property damage resulting from an alleged act of malpractice or negligence by a licensed person in the profession or occupation , the plaintiff shall , within 60 days following the date of filing of the answer to the complaint by the defendant, provide each defendant , with an affidavit of an appropriate licensed person as required by the State of New Jersey

STATE OF NEW JERSEY, 2A:53A-27

A licensed person , there exists a reasonable probality that the care, skill or knowled - ge exhibited in the treatment practice or work that is the subject of the complaint , fell outside acceptable professional or occupational standards or treatment practices . The Court may grant no more than one additional period , not to exceed 60 days, to file the affidavit pursuant to this setion , upon finding of good cause . The person executing the affidavit shall be licensed in this or any other State ; have particular expertise in the general area or speciality involved in the action,as evidenced by Board certification or by devotion of the person's practice substantially to the general area or speciality involved in this action for a period of at least five years. The person shall have no financial interest in the outcome of the case under review, this prohibition shall not exclude the person from being an expert witness in the case, L,1995,c.139 2.

(2A:53A-28,) Sworn statement in place of an affidavit permitted.

An affitavit shall not be needed pursuant to section 2 of this act,if the plaintiff provides a sworn statement in lieu of the affidavit setting forth that: the defendant has failed to provide plaintiff with medical records or other information having a substantial bearing on preparation of the affidavit; a written request therefor along with , if necessary , a signed authorization

thorization by the plaintiff for release of medical records or other records or information requested , has been made by certified mail or personal service; and at least 45 days have elapsed since the defendant received the request L. 1995, c 139 3.

2A:53A-29. Failure to provide affidavit or statement.

If the plaintiff fails to provide an affidavit or a statement in lieu thereof , pursuant to section 2 or 3 of this act , it shall be deemed a failure to state a cause of action. L.1995,c.139 4.

## STATEMENT OF FACTS

1. This action is the result of a previous action, where these Defendant's, Parker, McCay & Criscuolo, violated the legal system , and in doing so violated the Legal and Constitutional rights of every citizen.

2. These violations by the defendant's have set Legal and Constitutional precedents that have been designed to completely over rule decisions by the Justices of our High Courts ( see page VI.) Hubbard V. Reed , and ( Page VII ) Burns V. Belafsky .

3. In the previous action where the violations took place , there violations of these laws have set aside existing State Statutes , and worse, they have set aside the decisions of our Justices and the elected officials who legislated the laws.The Defendants by incorporating wording into the statute and then use their incorporated wording to create a defense, as they have designed the wording to fit the needs of the defense they are creating,which in this action were requirements in affivadits of Merit which do not exist, and the Courts,even after being informed , ignored the fact , there was non-existing wording in the defendant's defense, being said to the Court that it did exist as a requirement of the affidavits of merit , when it did not, It was FRAUD to the citizens and the legal system.

Knowingly supported by the Courts , an out right crime that can not be ignored or let go unpunished.
4. The Defendant's in doing this scheme of theirs, avoiding valid complaints from going to trial , is certainly a violation of everything our Justice system is ment for, it's a black mark against every honest ,decent Judge and Attorney in this Country.
5. The violation of the defendant's have set legal and Constitutional Precedents that completely over ruled existing decisions of the High Courts, The violations of the laws have set aside existing State Statutes and existing decisions by Justices and Elected Officials who legislated these laws. Elected officials who legislated these laws are officials elected by the PEOPLE , and not for some law pirates to steal our rights ( JUSTICE ) away from the people , thats just what is done.
6. By the defendant's incorporating into the Statutes their own alleged standards and condition , and then use these changes they made as a defens for themselves,and being able to convince the courts to over look the Law , because they are big political power broker law firm , and carry a great deal of influence with appointments to higher positions . This must not be allowed here.It smells of corruption .

7. When the Defendant's in the previous action received that complaint from their clients , they had 35 days in which to answer the complaint, unless they requested an extension to answer , which they did not. The time to answer went past the 35 days with no answer. Now,( this is very important) at this point in the case they are in default . They then have 20 days to show the court some valid reason why they did not answer the complaint, and that because of this they feel the default judgement should be vacated , The defendant's did not do this . At this point they have exhausted all avenues of defense for their client , the case is over . Their client they had, is no longer their client for the purpose of this action.

8. It's obvious that the defendant felt that there was no financial loss with the case, so why fight it , give the plaintiff the Judgement, it's worth nothing ,and it cost us nothing and the case is over.

9. The defendant's ( negligence ) did not read the complaint , because on page 5A it spelled out very clear, that should there be a default on behalf of the defendants , what the penality is.See Appendix Da-3.

10. On the 65th. day after serving the complaint to the defendant's , and receiving no requests for an extension of time,the plaintiff filed for the default judgement , and the Court honored it , as it was obvious to the court that the defendant's violated the law.

11. On or about the 75th. day after receiving the complaint , the defendants filed a motion with the court alleging that they requested an extension of time,what the defendant's neglected to state was that they only requested the extension on the 70th. day, the judgement was already in force. However, they wanted the Court to think that they were the good guys, and that the plaintiff refused them an extension , they never told the Court the date they requested the extension , and that the judgement by the court had already been granted when they requested the extension , about 75 days after being served . long after their client was no longer their client , because of their negligence and scheming .

12. The defendant's now in a state of panic , filed a motion with the Court to have the judgement vacated . The defendant's told the Court everything but the truth and promised the Court that they would fully answer the complaint , and that they had a solid defense for everything , and so state this in the answer to the complaint.

13. The so-called answer to the complaint was filed on the 112 day after being served . None of the 20 issues on the complaint were answered , nothing they told the court was done , When this was questioned,the defendants answered that this was permitted with attorney's as they were privileged with absolute immunity to say or

do anything as long as it was in the defense of their client . They claim that the fact that they lied ment nothing as it was in defense of their client.The defendant's claim they have this same rights when altering the wording in the statutes.

14. The very serious question here is, did the defendants have a client? I contend that after the 35 days expired and the defendant's did not answer the complaint , then in addition to that,the defendant's did not file for help from the court within the next 20 days as required by law. At this point the case is over, their clients are guilty, and because of the defendants negligence.When the defendant,s filed their motion to vacate the default judgement, they had no client ,the defendant's were filing the motion to save their own skins from being sued by their previous clients for Malpractice and Negligence ,and because of the Negligence and Malpractice to their client they want the court to find the plaintiff guilty and with cost etc. Again , the defendant's had no client when they motioned the court , therefore, they are not subject to any privilege or immunity.

15. The defendant's incorporated language into a State Statute which caused Judge John T. McNeill III to dismiss the Action is, " stated that THE TWO Doctors under New Jersey State Statute 2A:53A-27,

did not qualify." The defendant's claimed that the Doctors did not have experience in ADMINISTRATION OR HOSPITAL PRACTICES".The Statute does not State or require this,and the Court upheld this as a reason to dismiss the case. The court in doing this, along with the defendant's, ignored and violated the legal Decisions set down by both Justices,

16. New Jersey Appellate Division. Hubbard V. Reed, Id at 290, Id at 291..

"In Hubbard V. Reed, the Appellate Division reviewed basic tenants of statutory construction,Id at 290, and observed that" "When the statutory language is clear a courts sole function is to inforce the Statute in accordance with the terms". Id.,at 291 ( quoting from Philips V. Curiale, 128 N.J. 608,618),(1992) The court, Hubbard V. Reed then observed that a court does not have authority to substitute it's own ideas of what a statute should require in the face of clear and unambiguous stautory requirements.

17. There is no question that the defendant's and the Courts are in violation of Hubbard V.Reed, the defendant's have never mentioned or tried to defend themselves against these court decisions they ignore them as they know that should they

acknowledge that this part of the complaint involves decisions by the High Courts , then they must put forth some kind of effort to try and make it look like it was an over sight.

18. NEW JERSEY APPELLATE DIVISION , BURNS V. BELAFSKY, 166 N.J. 466 ( 2001 ). "where the Chief Justice made it CLEAR,That an EXACT PRECISE , match between the speciality of the alleged tortfeasor and the speciality of the expert was NOT REQUIRED .What is required is a DEMONSTRATION that the expert is qualified to supply the required BASIS for THE MEDICAL COMPLAINT.see table Authorities,N.J.Statutes.

19. The defendant's at no time during the case, made any effort or statements that they had checked on either of the Doctors , as to their background in medicne, where they had worked prior to opening their own Medical Facilities or other information regarding both Doctors, as both Doctors are a credit to the Medical profession , and highly respected in their field. However,the defendant's arbitrarily decide to make up a charge on their own and claim it is part of the law, when it is not, and charge the Doctors with this as a violation . The courts after being informed of this fraud say nothing , they just continue to ignore it. (See Table of Authorities for New Jersey Statutes, Burns V. Belafsky and Hubbard V. Reed ).

## REASON FOR GRANTING THE WRIT

1. This is a case that has had every illegal scheme possible used by the defendant's, In their previous action to protect their previous client from having to go to trial. The Defendant's knew that the plaintiff had documented proof of Massive Hospital Insurance fraud ( their Previous client ).The term Murder can not be used in civil cases, so wrongful death, unlawful death are used ,without any doubt this also can be proven,Their previous clients were desperate to keep this from going to trial and every thing being aired out in public , ( stop at nothing , just keep this out of court ).

2. The Defendant's for what ever reason in their scam of the legal system, did not answer the complaint,which then forced a default judgement , they knew it would keep the action from going to trial. However, I assume that they screwed up with their plan , and because of being negligent a default judgement for 5 million dollars was entered ,and after letting so much time expire in not filing their motion , they were now without a client in this action, they then decided to file a motion, to have the Court vacate the default judgement,and have the action dismissed , and tell the Court anything thing , this case is to important to fight in trial,say do anything , just keep this case out of Court .

## REASON FOR GRANTING THE WRIT

3. The Complaint was filed in Superior Court, in Burlington County , New Jersey, and the Judge Was Patricia Richmond LeBon , Superior Court of New Jersey. During the case hearing I explained to the Court that in the previous action that was the cause of this action, and that it was Superior Court Judge, John McNeil III that heard the case, and he dismissed the case, regardless of the fact that the Defendant's had altered the wording of the Statute.

4. Judge LaBon said, I know Judge John McNeil very well, he a fine experienced Judge, and if that was his findings , I'll go along with him on his finding, Case Dismissed.The reason the action was was filed was in objection to Judge McNeills decision.I expected Judge LaBon to at least review the Statute , and then State her decision as to the violation of the statute, she did not, She just went along with Judge McNeill's decision, and if any of the Courts had taken the effort to review the Statutes in question , along with the decisions of of the Justices in Hubbard V. Reed and Burns V. Belafsky , as they are ruling on these very types of injustices and violations of the law. Judge La Bon did not send to me a copy of her decision , However, at the end of the hearing , she said I was denied .

## REASON FOR GRANTING THE WRIT

5. This case may seem very minor, and be considered an isoluted event with little effect, How, ever, and not just because of my action, it has a far reaching effect on the legal practice, reasoning and and understanding of our law,our rights being protected and honored. if the Attorney's and courts are permitted to override the decisions of the Justices , and the existing State Statutes as have been done (with out question ) then the complete Justice system is up for grabs, The people have no rights, and certainly no protection. Where Judge LeBon is concerned, I filed the law action in her Court for review and decision, based on a qualified Judge of the Superior Court at least reviewing the statutes, and the decisions of the Appellate Justices , and then after the hearing make her decision, not make her decision on the basis of Judge John McNeill because she knew him and found him to be a good trial attorney who had dismissed my action, and was the reason my action was in her Court. This Decision of hers was no accident , and the higher Courts I appealed to only followed Judge LeBons lead, as in the previous case an Appellate Court Judge when rendering his decision , He said , " the Pearls of PRO -SE". Not that I was not correct, but in so many words, you don't buck our Legal fraternity , you hire an Attorney .What he did not know was, that I was not bucking the fraternity , I was just poor.

## REASON FOR GRANTING THE WRIT

6. I won't go into Judge McNeills reason for denying my action in the first case,as it had nothing to do with the merits of the case. It was very personal between him,my first wife,while I was still married to her and myself, as well as his law firm , who worked for a large Company I was director of . His decision had nothing to do with the merits of my first action. I asked the Court to remove him as the Judge in that action because of our differences,and he would not step down.

7. To sum up this action, the facts are clear and certainly show their violations of laws legislated, and the decisions of the Justices, and their decisons are clearly made for this type of case,and it is more than obvious that if this decision is not over turned, The damage from what is happening is far reaching to the laws and people of our Country,it,s not just this case , it's grounds for every law and statute to have no meaning, no need to legislate.

8. When this case is overturned , I feel the Court should spell out very clear, that not only is the default Judgement to be reinstated ,but advise all parties that this case is valid , legal , and ready to be tried in a Court of law. Right now the statute of limations has expired for me to have this case tried , because of the defendant's actions with our laws, I have been deprived the right to a trial .

## REASON FOR GRANTING THR WRIT

9. During all of this action, the Defendant's have never denied the fact that they altered the New Jersey State Statute on the requirements of a Doctors Affidavit of Merit , and used this as their Defense to have the case dismissed, even with the decisions of both Justices in front of them. The lies the defendant's told the Court to have the default Judgement vacted , have never been denied either,They Just claim Privilege and immunity, even knowing they were not defending a client as they did not have one at that time.Judge La Bon when asked about the fraud mentioned 7 times as a cause of action in the complaint, Judge LaBon Said, " Fraud , I did not see it in the complaint " . However , it certainly was there .

10. The laws spell out very clear the time requirements when answering a complaint and the requirements to file appeals and motions . This is done for a specific and valid reason.If they are not lived up to , all is over.Should there be some very unusual circumstances the Courts may make an excetion . In this case attorney's, Because of negligence and malpractice to their client , caused the problem , and with no unusual conditions involved ,

## REASON FOR GRANTING THE WRIT

In addition to this , they then go to the Courts , because of Negligence and Malpractice , and Lie to the Court about everything , promise the Court that they will do everything,and do nothing, & now expect to be rewarded for their negligence and malpractice . They have cost the State ( tax payers ), the plaintiff ,The courts, the legislators, all kind of time and money.Most of all they have made a mockery of the complete legal system , and with no conscience or concern of our people, their legal and Constitutional rights,The Court that has permitted these Attorney's,who rape our rights, the decisions of our Justices , the dignity of our our Country , are just as guilty of crime as any other criminal .

11. It is impossible to read the Hubbard V. Reed Burns V. Balafsky decisions , the State Statutes, and not know that the Judges involved with the decisions favoring these Attorney,s did not know they were wrong, and violating the law.

The Plaintiff hereby states, under Oath, and Penalty, that everything stated in this Petit and Writ is the truth, so help me God.

Stanley W Drinkwater Jr.

## TABLE OF APPENDIX

1. Complaint to Superior Court ..... 15 ,16 .

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Attorney , PRO-SE

SUPERIOR COURT OF NEW JERSEY
Law Division - Burlington County
DOCKEt L- 001614-03

CIVIL ACTION
COMPLAINT AND DEMAND
FOR TRIAL BY JURY.

Wrongful statements to the Courts, costing plaintiff millions.in their defense brief to the Courts, defendants tampered with the wording of the N.J.Statutes, and causing great harm and expense to the Plaintiff, and damaging the reputations of two Doctors, all causing crimes to go unpunished and obstruction of Justice.

Plaintiff
Stanley N. Drinkwater Jr.
P.O.Box 354710
Palm Coast, Florida 32135
(386) 439-4168

VS.

Defendant(s)

Law offices
Parker, McCay & Criscuolo,P.A.
Law Firm ,Corporation, Individuals
Three Greentree Centre,suite 401
Route 73 & Greentree Road
Marlton, New Jerasey 08053
(856) 596-8900

Stanley N. Drinkwater JR, Hereby certifies.
1. I am the plaintiff in this action,I am demanding financial justice, the amount of five million dollars plus costs and expenses for the designed wrongful and unlawful acts by the defendants , along with malpractice, in the case of Docket NO.L-643199 Superior Court of New Jersey,Camden, New Jersey

lated involving the subject matter of this controversy at this time, and there are no additional known parties who should be joined to the present action at this time.

3. That the defendants have been served on this action by the sheriffs Department of Camden County, New Jersey, as required by Law.

DEFAULT JUDGEMENT (Complaint page 5-A)

Wherefore,Plaintiff demands judgement against defendant(s) for compensatory damages, punitive damages, pre-judgement interest, cost of the suit, and any such other and further relief the Court deems equitable and just.

Further , should the defendant (s) not answer this complaint , and there is a default judgement entered against them , the amount of the judgement shall be (5) million dollars.

Supreme Court Of New Jersey
C-134 September Term 2004
56,609

Stanley N. Drinkwater,JR
Plaintiff-petitioner,

V.

Parker MCCay & Criscuolo,
Defendants-Respondents.
On petition for Certification
FILED sep 29 2004
"s/ Stephen Towsend , clerk

To the Appellate Division, Superior Court: A petition for certification of the judgement in A-1282-03 having been submitted to this ciurt, and the court having considered the same;
It is ordered that the petition for certification is denied, with costs

Witness; the Honorable Deborah T. Poritz , Chief Justice, at Trenton, this 27th day of September 2004.
The fore going is a true copy of the original on file in my office, "s? Stephen Towsend, clerk of the Supreme Court of New Jersey.
"s/Stephen Towsend, clerk of the Supreme Court

Superior Court of New Jersey
Appellate Division
Docket NO. A-1282-03T5

Stanley N. Drinkwater, Jr.,
Plaintiff-Appellant,
V.

Parker, McCay & Criscuolo, P.A.,
Defendant- Respondent.

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Submitted: May 3, 2004- decided before Judges Newman and Fall ,June 8,2004
On appeal from the superior Court of New Jersey, Law Division, Burlington, County, L-1614-03.
Stanley N. Drinkwater, Jr., Appellant pre-se .
Giordano, Halleran & Ciesla, attorneys for respondant (Michael J. Canning, of Council; Catherine J. Brick, on the brief).
Per Curiam
Plaintiff Stanley N. Drinkwater,Jr, appeals from an order entered on August 8,2003, dismissing his complaint against defendant Parker, McCay & Criscuolo,
P.A. with prejudice, and plaintiff fails to state a claim upon which relief may be granted.
Accordingly , Defendant's motion to dismiss is granted.

I hereby certify that the foregoing is a true copy of the original on file in my office.
"s/ Jim Flynn , Clerk of the Appellate Court.

September 26 2003
Chambers of Patricia Richmond LaBon

Superior Court of New jersey
Law Division
Burlington County
Docket NO. L-001614-03
Civil Action
Order for reconsideration

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Stanley N. Drinkwater, Jr.
plaintiff
V.
Parker , McCay & Criscuolo,P.A.
Defendants

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This matter having been opened to the Court upon motion made by Giordano, Halleran & Ciesla, P.A., Attorneys for Defendant, Parker , McCay & Criscuolo,
P.A. for an order dismissing plaintiff's complaint, which was granted for failure to state a caause of action, and upon Plaintiff's proof to the court for reconsideration of the facts, and upon proving that plaintiff's proof has shown
that the decision to grant the motion for the defendant was an error.

Further, that the request of the plaintiff for the default judgement to be re-instated to the plaintiff, and that the case be set down for a trial by jury, be granted to the plaintiff.

IT IS ON THIS 26 day of Sept., 2003

The motion for reconsideration is denied.

"s/ Patricia R. LaBon J.S.C.

TRUE COPY
"s/ PATRICIA RICHMOND LEBON,J.S.C.
Docket Number L-1614-03

Giordano, Halleran & Ciesla, P.C.
Mail to: P.O.Box 190, Middletown N.J. 07748
Deliver to: 125 Half Mile Road, Lincroft,N.J. 07738
(732) 741-3900

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Stanley N. Drinkwater,JR
Plaintiff
V.
Parker,McCay & Criscuolo,P.A.
Defendant

---

Superior Court Of New Jersey
Law Division
Burlington County
Civil Action
ORDER DISMISSING COMPLAINT
WITH PREJUDICE

THIS MATTER having been opened to the Court upon motion made by Giordano , Halleran and Ciesla, P.C., Attorneys for defendant , Parker McCay & Criscuolo,P.A. for an order to dismissing Plaintiff's complaint pursuant to R.4:6-

2(E) for failure to state a claim upon which relief can be granted and upon proper notice to Stanley N. Drinkwater, Jr., PRO-SE , and the court having reviewed the papers submitted, and having heard oral argument, if any, and for good cause having been shown,

It is on this 8th. day of August, 2003

Ordered that plaintiff's complaint be dismissed with prejudice; and it is, FURTHER ORDERED that a copy of the within order shall be served upon all council within 10 days of the date hereof

"s/ Patricia R. LeBon J.S.C.

:: ODMA\PCDOCS\ ghcdocs\360844\1_

Original Affidavit of Merit,Dr. Breautigam

Drinkwater VS. West Jersey Health Systems , West Jersey Hospital , Affilates ,Corporations, Individuals.

Case Docket NO. L-643199
Superior Court of New Jersey
Camden.

I the undersigned reviewed the following.

(a) Medical records pertaining to the deceased Madeline M. Drinkwater ,120 pages

(b) Death certificate.

(c) Legal statements of Defendant, pertaining to her condition.

(d) Plaintiff's filed complaint, NO.L-643199.

(e) Defendants motion on default judgement/

(f) Answer to complaint by defendants.

(g) Power of attorney.

It is the opinion of the undersigned that the complaint by the plaintiff has merit, and this case should be tried in court by a jury."s/ Due to and re-

Original Affidavit of Merit,DR. Breautigam

regarding questions resulting from the validity of the power of attorney.

"s/ Kent T. Braeutigam, D.O. Feb. 10, 2000
3839 County Road 218 East
Middleburg, FLA. 32068

Witness

"s/ Kim Wase ". -- Kim Wase

Docket NO. L-643199

Addition To The Original Affidavit of Merit .

I hereby state that all the facts and statements in the original affidavit of merit are true and correct to the best of my knowledge.This is in addition to the origional affidavit of merit, to explain in some detail the facts as I understand them.

The 120 pages of medicial records reviewed show that the deceased entered the hospital know as Lakewood of Voorhees after leaving John F. Kennedy Memorial Hospital in suitable condition to go home. After being home for a short time, the family decided to return her to hospital care . A serious question arises as to why the family did not take her back to the previous hospital , who were knowledgeable of her condition .

Madeline Drinkwater was only in theWest Jersey Hospital about a week when she passed away on September 9, 1997. On admission to the Hospital evidently a durable power of attorney was prsented to them, which limited any treatment excfor comfort measures . In addition to this next to nothing was done medically for her condition.

Power of attorney document was said to have been executed on June 27, 1997. The Patient was in John F. Kennedy F. Kennedy Memorial Hospital in Stratford, New Jersey. It was prepared by Attorney Gregory J. Taglienti of Berlin , New Jersey and the Notary Public,Nora Pascht is of the same Law Firm.

Addition to origional Affidavit of Merit

On June 27, 1997 The Notary public states that the deceased, Madeline Drinkwater personally appeared before her and that she was satisified that (HE) acknowledged that (HE) signed and delivered the same as his voluntary act. The truth is that at this time the deceased would not have known what she was signing

On the 27th. day of June,1997,Madeline Drinkwater was in the intensive care unit at John F. kennedy Hospital in Stratford, New Jersey. Madeline Drinkwater could not have appeared in the office of the Notary Public.

In the condition of Madeline Drinkwater on 6/27/97 she would not have been able to read or to comprehend the contents of the power of attoney document and thus there is a question of the legal value of said document.

After the power of attorney document was delivered to sign , which is alleged and she did , they did not leave a copy with the Kennedy Hospital and the deceased did not leave Kennedy Hospital for over a month after the document was executed Madeline Drinkwater was transferred to Lakewood of Voorhees on July 29,1997.

Addition To Origional Affidavit of Merit

A serious question exists as to why a copy of the power of arrorney was not submitted to Kennedy Hospital wwhere she was preseent at the time of said execution.

It must be remembered that a power of attorney given to anyone is given with the understanding that the person will act in the best interest if they themselves are not able to. I believe Madeline Drinkwater was deprived of this.

"s/ Kent T. Breautigam , D.O. date 4/21/00

License NO. 05 0005 110, State of Florida

Years in practice ( 12 years ).

3839 Country Road 218
Middleberg , FL. 32068
PH. 904-282-5474 , Fax : 904-282-5824
Witness, "s/ Delma J. Meyers,3839 CR. #218 , MBC FL. 4-21-00".

Original Medical , Affidavit of Merit,Dr.Deprey

Drinkwater VS . West Jersey Hospital Systems, West Jersey Hospital,Affiliates or Corporations,Individuals.

Case Docket NO . L-643199 , Superior Court of New Jersey, Camden.

I the undersigned reviewed the following.

(a) Medical records pertaining to the deceased Madeline Drinkwater , consisting of 120 pages.

(b) Her death certificate

(c) Legal statements of defendants council,Pertaining to her condition .

(d) Plaintiff's filed complaint,Docket NO. L-643199.

(e) Motion by defendant on the default judgement.

(f ) Defendant's answer to the complaint.

(g) The power of Attorney.

It is the opinion of the undersigned that the complaint by the Plaintiff has merit,and that this case should be tried in court, by a jury. hdld160-013. 56.327.0ex.9.7.2003

Original Medical , Affidavit of Merit,DR Deprey

" s/ Allen M. Deprey " 2/24/2000
2225 A1A SO, ste C8
St. Augustine , FL. 32984

**Notary**
"s/Carrie Jean Mickler "
Carrie Jean Mickler

Notary seal
Mar 2000
RECEIVED

Carrie Jean Mickler
My commission CC893640
Expires December 08,2003

**Affidavit of merit and amended affidavit of merit , of Dr Allen M Deprey,D.C.**

Stanley N. Drinkwater, JR. (individual).

VS.

West Jersey Hospital - Berlin Division ,
West Jersey Health systems,
Affiliates or Corporations.

Cival Action

Superior Court of New Jersey
Law Division
Camden, New Jersey

Docket NO. L-643199

Complaint and demand
For Trial by Jury

For

Unlawful Death
Medical malpractice
Negligence
Wrongful Death

Affidavit of Merit Clarification for Judge McNeill.

Affidavit of Merit Amended,Dr Deprey

The affidavit of Merit filed with the court on 2/25/2000, is the results of my findings as stated on existing affidavit of merit , items, (a), (b), (c), (d) (e), (f ), and (g).

Mr Drinkwater,JR. indicated that Judge McNeal was not satisified with the affidavits of merit , However, would not give any grounds for his opinion , giving me very little to make a conclusion.

Item (a), Medical records reviewed show the treatment the deceased received while in the John F.Kennedy Hospital and Lakewood of Voorhees Hospital, indicated that Madeline Drinkwater had improved to a point where she was able to return to her home . The real concern is when she was admitted to the West Jersey Hospital,and their lack of treatment , and reasons.

Item (b), Her death certificate , as to her cause of death , compared to the causes as outlined by the. defendants are in need of some clear proof and explanation .

Item (c) , Legal statements by the defendants council pertaining to the condition of the deceasare only statements . Defendants council produced no reports from their Hospital and clearly outlined the treatment plan alleged by the family members. Many questions here.

Item (d). The plaintiff's complaint was detailed in every aspect.The statements were proper, clear, with good merit , and certainly warranted an

answer of truth and concern on behalf of the defendants , which he did not receive in my opinion.

Item (e), Motion by the defendant's on the default judgement , their items 4 , 5 , and 6 are of great concern as to the deceased condition and their reasoning for lack of treatment.

Item (f ), Defendants answer to the complaint needs no explanation.

Item (g) , There are many questions pertaining to the power of attorney and it's use, certainly indicate negligence on behalf of the defendants, and the cause of that negligence was one among other reasons for the charges of ,Unlawful Death, Medical Malpractice , Wrongful Death, and Negligence. These are not documents that should be taken lightly , as it seem the defendants did, along with the validity of the document.

The defenants statements as to her critical codition while in West Jersey Hospital , have produced no documention to support their Statements , including, "additionally, at such time plaintiff had suffered a stroke ".

It is clear in my opinion that the plaintiff has merit to his complaint .

To further clear the air as to the defendant complaint, or question, in their item 6 and 8 of their motion.

Affidavit of Merit, Amended, Dr Deprey

I am licensed by the State of Florida. I have my own Medical Facility in St. Augustune,Florida, and I am qualified (defendants #6 and #8, Administration , Hospital Practices and or operations.

"s/Allen M. Deprey, D.C.
2225 A1A So. Ste C8
St. Augustine ,Florida 32084
April, 2000

Years in Practice , 10
Florida License , CH0006235

Witness
"s/ Nancy J.Hach "
2225 A1A So. Ste C8
St. Augustine Florida 32084

(2)

SUPREME COURT U.S.
MAY 9 - 2005
OFFICE OF THE CLERK

NO. 04-1085

IN THE

SUPREME COURT OF THE UNITED STATES

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Stanley N. Drinkwater , Jr. — Petitioner
P.O.Box 354710 — PRO-SE
Palm Coast, Florida 32135
(386) 788-7982
Individual

V.

Parker, McCay & Criscuolo — Respondent
Three Greentree Centre Road
Route 73 and Greentree Road
Marlton, New Jersey 08053
Defendants

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# PETITION FOR REHEARING

## PETITION FOR REHEARING
## ( ARGUMENTS )

1. The Courts have errored consistently through out this case. The defendant's have never directed their defense to answering the complaint .Because of this the Courts have been making their decisions on the basis of the defendants defense position , and that is to divert the Courts attention away from the plaintiff .s issues in the complaint , and it has worked for the defendant's . This is certainly not justice in any sense of the word.
2. The complaint involves two issues . Did the defendant's legally have a client after the default judgement was entered , and the period for the defendant's to appeal the judgement had expired . The defendant's did not do either of the above.
3. After the required times had expired , with no request from the defendant for an extension , the plaintiff filed for the default judgement , and the Court granted it. After the Court granted the default judgement the defendants file a motion to have the default judgement vacated, about 85 days after service of the complaint.
4. At this point the defendant's no longer have a client when filing for the motion, which in it's self

was a violation of law to permit a motion under these circumstances. Defendant's failure to timely file the notice within the required time. FAILURE TO COMPLY EFFECTIVELY FOREVER BARS an alleedly aggrieved party from seeking further relief . " In Re pfizer's Estate, 6 N.J. 233 (1951)". Alberti V. Civil Sevice Com. , 41 N.J. 147, 154 ( 1963 ) . As stated in Pfizer " [ i ]t is a well established principal in this State that when the time for taking an appeal has run the parties to the judgement have a vested right therein, which cannot subsequently be taken from them. . . [I]t is of the most importance that at some point judgements become final and litigations come to an end". In Re pfizer, 6 N.J. at 239, Where an appeal is not perfected within the period provided by R. 2 : 4-1 , the appeal is untimely and the Appellate Division has no jurisdiction to decide the merits of the appeal. Matter of Hill , 241 N. J. Super, 367 , 372 ( App. Div. 1990 ) .

5. The defendant's have stated that the plaintiff was late in filing his notice of appeal, this is not true . The plaintiff was advised by the Court , not to file his appeal until the transcripts of the hearing had arrived, and to file the transcript with the appeal . However , the court advised the plaintiff to send to the Court proof that the

transcripts had been ordered and paid for, and this the plaintiff did. No violation of any type existed . and least of all a timely violation .

6. The defendant's , in their defense are fighting the very same argument that the plaintiff is, the only difference is, that the defendant.s are stating false facts to the Courts as to plaintiff not being timely with his appeal . Also , the defendant s are able to suggest such a defense,knowing it's false, as they have nothing else.Their false statements as to not being timely , are years after these same stated violations by the defendant's happened to to the plaintiff , in this same matter. How can the courts have denied the plaintiff his rights in this case , and turn around and not deny the defendants for the same reasons in the very same action. The law is clear that the motion by the defendants to vacate the default judgement is granted in error.

7. The defendants after about 80 days motioned the Court to vacate the default judgement , stating many false hoods to the Court and promising many other items , none of which were ever done. The defendant s claimed as to their false hoods to the Court this was permitted as they had absolute litigation privilege . Ericson v. Marsh & McLennan,Co .117 N.J. 539, 563 (1990). Absolute immunity privilege is necessary to permit an

their negligence in not answering the complaint for 112 days. Important to remember that these violations all took place prior to any of their motions being granted , which should not have been granted to begin with , this caused all the problems, as their alleged violations were after the fact, all their violations they claimed against the plaintiff were the results of the complaint that the Court errored on.

9. The defendants alleged that both affidavits of merit supplied by the plaintiff were not satisfactorary and did not meet the requiremenst of the N. J. Statutes , 2A : 53A-26 thru 2A : 53A-29. The defendant's in their oral and written defense stated that both Doctors affidavits of merit did not have experience in Hospital practices Administ ration ,Operations Practices.At the motion hearing , the Judge could not find their alleged statements in the statutes.However,plaintiff Attorney claimed not to have the statutes ,and the Judge went along with the defendant's regardless, he was absolutely wrong , as the statements by the defendant's did exist, see N.J. statutes in Petition for writ of certiorari pages V thru VIII. This error by the court was the cause to have the action dismissed and prevented me from having my day in Court as I am legally entittled to under our constitution.

Attorney's unfettered expression of it's legal position to the Court in advancing the interest of it's CLIENT .Defendant had no client when they cried privilege to the Court when using all their falsehoods to have the default judgement vacated. privilege is only used when defending their client. They no longer had a client for this matter,as their client that they had for this action was wiped away when the defendant s frauded their client and caused a default judgement to be entered which was a malpractice & certainly negligence on their behalf. Page #2, ( court decissions) spells out very clear that " Failure to comply Effectively forever Bars an alleged aggrieved party from seeking further relief ".They had no client,which gives the defendant's no privilege or immunity and no defense .
8. The defendant s, after the defeult judgement was entered due to their negligence to their client, realized that they would be sued by their now previous clients, so they lied to the Court, alleging they still had a client to have the default judgement vacated .The only client the defendant s had was themselves , and that was only to prevent themselves from legal action from their previous client who would certainly want to recover their losses due to the action of their previous attorneys costing them a great loss in money due to

The Courts have completely ignored New Jersey Appellate Division decission , Burns V. Belafsky, 166 N.J. 466 (2001). " Where the Chief Justice Made it clear , that an Exact Precise , match between the speciality of the alleged tortfeasor & the speciality of the expert was Not Required". "What was required is a Demonstration that the Expert is qualified to supply the required Basis for the medical complaint". Both Doctors filed Affidavits of Merit . Each Doctor met every requirement of the New Jersey Statutes and more. The defendant's refused to supply any records from the Hospital . The Doctors made their reports from the documents the plaintiff was able to gather together . The defendants at no time made any type of complaint regarding the doctors or their Affidavits , their only complaint was the prefabricated requirement by the defendant's , which did not exist. See affidavits of Merit ( petition for Writ of Certiorari , pages Da-10 thru Da-20 ) . The Courts again ignored New Jersey Appellate Division , Hubbard V.Reed, Id.at 291, where it clearly states that the action of of the Courts in permitting the defendant s to alter the New Jersey Statutes by inserting their own wording into their defense and causing the plaintiff to have his case dismissed , certainly violating

his Constitutional and legal rights. " In Hubbard V. Reed , The Appellate Division reviewed basic tenant of statutory construction , Id at 290 , and observed that " When the STATUTORY language is clear , a Court's SOLE function is to INFORCE in accordance with those terms". Id. at 291 ( quoting from Philips V. Curiale, 128 N.J.,608, 618 (1992). The Court in Hubbard V. Reed then observed that a Court does not have the authority to substitute it's on ideas of what a Statute should require in the face of clear and unambiguous statutory requirements". The Courts in this action are guilty of violating this Statue.The Court Knew that the affidavits of merit were next to perfect, nothing wrong , The Courts knew that the defendant's had submitted false statements to the Court regarding medical requirements , requirements that were not a part of the statutes . The Courts knew when they dismissed my action that they were in violation of the law, many times , as the plaintiff supplied the Courts with all this information. Every action the defendant's have used in this case is an action that has been presented to the Court , after the Court had approved their violations of the law, stripping and raping the plaintiff of all his legal and Constitutional rights.I realize that I am PRO-SE in this

matter, and not a member of your Legal Fraternity. As one Justice reminded me . He never said there was anything wrong with the issues ,it was how it was presented, " the pearls of PRO-Se " This would not be PRO-SE if I could have afforded legal Council. I think what really should matter is, did the defendant s violate the law ? Is justice for all, or just for the select few? Are the PRO-SE plaintiff's handicapped ? I notice in the defendants brief to the New Jersey Appellate Court that the Exhibits presented to the Court have been reduced in size to about one fifth the normal size, so that the Court could not read it. If the defendant's felt thay were so right, why would they not want the court to read it.

10. The defendant's have made a case out of saying that PMC was not a party and could only act in the underlying action on behalf of it's client. However,after failure to comply within the stated times effectively forever bars the defendant's from seek-further relief. Alberti V. Civil Service Com., 41 N.J. 147, 154 (1963). as stated in Pfizer, "[i]t is a well established principal in this State that when the time for taking an appeal has run the parties to the judgement have a vested right therein which cannot subsequently be taken from them. It is of the utmost importance that at some point judge-

ments become final & litigation come to an end".
11. The defendant's again continue to try and use such argument's as , "` West Jersey Health Systems was the party to the underly act, not PMC. This might have been true if the defendants had not violated the strict time requirement . However, when the defendant's refused to comply to the law , their clients position was no longer that of a client, but the position of a previous client with a malpractice claim against PMC and rightfully so. PMC did pull a fast one when filing the motion to vacate the judgement , knowing they were in violation of not filing timely,and were able to pull the wool over the Courts eyes.
12. The legal truth is that PMC's action in filing The motion to vacate without having a client pertaining to the complaint from the plaintiff , and caused by the defendant, must be considered Not only a serious ethic violation , this violation Was planned , they knew they were in violatIon of the law , as they tried to use it as a defense Against the plaintiff.Their legal, knowing misconduct Can not be takin lightly , needless to say to the plaintiff , but also harmful to the system.
13. The plaintiff requests that the Court reverse their decision and reinstate the default judgement.

This case by law has been denied it's day in Court. It is a very serious action .A womans life was taken from her, certainly wrongful death I do not want her violators to go unpunshed . I ask the court to give me justice , and the right to take this action to trial.

Stanley N. Drinkwater,Jr. date May 5, 2005

Stanley N. Drinkwater,Jr.
Plaintiff.

## CERTIFICATION OF PLAINTIFF

## STANLEY N. DRINKWATER, JR.

Plaintiff does hereby state as required by Rule 44 and Rule 29, that this rehearing Petition is in good faith , and not for delay.

Stanley N Drinkwater Jr date May 5, 2005
Stanley , N. Drinkwater, Jr.
Plaintiff